

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**DAVID LUIS TORRES,**

**Plaintiff,**

**vs.**

**Civ. No. 23-00398 KRS**


**MARTIN O'MALLEY,<sup>1</sup>  
Commissioner of the Social Security  
Administration,**

**Defendant.**

**ORDER GRANTING UNOPPOSED MOTION FOR ATTORNEY FEES  
PURSUANT TO THE EQUAL ACCESS TO JUSTICE ACT**

The Court, having reviewed the parties' Unopposed Motion for Attorney Fees Pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412 (Doc. 22), HEREBY ORDERS that attorney fees be, and hereby are, awarded under the EAJA, payable to Plaintiff but mailed to Plaintiff's attorney in the amount of \$6,800.00 in attorney fees. *See Astrue v. Ratliff*, 560 U.S. 586 (2010) (EAJA fees are paid to the prevailing party, not the attorney).

IT IS FURTHER ORDERED THAT, if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

  
**KEVIN R. SWEAZEA**  
**UNITED STATES MAGISTRATE JUDGE**  
**Presiding by Consent**

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<sup>1</sup> On December 20, 2023, Martin O'Malley became the Commissioner of Social Security replacing Kilolo Kijakazi, the Acting Commissioner of the Social Security Administration.